

## UTILITIES DIVISION[199]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to Iowa Code sections 17A.4, 476.2, and 476.102 and 47 U.S.C. Section 214(e), the Utilities Board (Board) gives notice that on July 17, 2014, the Board issued an order in Docket No. RMU-2014-0002, In re: Eligibility, Certification, and Reporting Requirements for Eligible Telecommunications Carriers and Related Confidentiality Provisions [199 IAC Chapters 1 and 39] “Order Commencing Rule Making,” proposing to update the Board’s rules governing its designation of telecommunications carriers as eligible to receive support from the federal universal service fund. Under federal law, state utility regulatory commissions have primary responsibility for designating which telecommunications carriers are eligible to receive support from the federal universal service fund. The Board’s rules governing designation of eligible telecommunications carriers (ETCs) are found at 199 IAC 39. The proposed amendments are necessary to eliminate outdated provisions, to align the Board’s rules with recent reforms to the federal universal service fund, and to clarify the process by which telecommunications carriers seeking an ETC designation from the Board apply for the designation.

To develop the proposed amendments, the Board sought early input from stakeholders. On March 4, 2014, the Board sent an e-mail to affected telecommunications companies, their associations, and the Consumer Advocate Division of the Department of Justice explaining the Board’s intent to update its ETC rules and asking several questions about how the Board’s rules should be revised. The Board received five responses to the e-mail inquiry. Generally, the responses agreed that the rules needed to be revised and offered preliminary suggestions for how to coordinate the Board’s rules with federal eligibility and reporting requirements for the federal high-cost and Lifeline universal service programs.

The order approving this Notice of Intended Action can be found on the Board’s Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0002.

Pursuant to Iowa Code sections 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before September 10, 2014. The statement should be filed electronically through the Board’s EFS. Instructions for making an electronic filing can be found on the EFS Web site at <http://efs.iowa.gov>. Any person who does not have access to the Internet may file comments on paper pursuant to 199 IAC 14.4(5). An original and ten copies of paper comments must be filed. Both electronic and written filings shall comply with the format requirements in 199 IAC 2.2(2) and clearly state the author’s name and address and make specific reference to this docket. All paper communications should be directed to the Executive Secretary, Iowa Utilities Board, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069.

An opportunity for interested persons to present oral comments on the proposed amendments will be held at 9 a.m. on October 28, 2014, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Board at (515)725-7331 at least five days in advance of the scheduled date to request that appropriate arrangements be made.

After analysis and review of this rule making, the Board tentatively concludes that the proposed amendments, if adopted, will not have a detrimental effect on jobs in Iowa.

These amendments are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).

The following amendments are proposed.

ITEM 1. Amend paragraph **1.9(5)“c”** as follows:

*c. Materials exempted pursuant to requests deemed granted by the board.* Requests to withhold from public inspection material or information that contains negotiated transportation rates and prices for natural gas supply, reservation charges for portfolio gas supply contracts, and terms and prices for all hedging activity including both financial hedges and weather-related information included in monthly purchased gas adjustment filings, annual purchase gas adjustment filings, annual purchased gas adjustment reconciliations, periodic filings related to changes in purchased gas adjustment factors, negotiated purchase prices for electric power, fuel, and transportation, customer-specific information, power supply bills in support of energy adjustment clause filings, network improvement and maintenance plans and related extensions and progress reports, filed with the board pursuant to 199—paragraph 39.7(3)“d,” wireless coverage area maps, depicting signal strength filed with the board pursuant to 199—paragraph 39.3(2)“g,” ~~service outage reports filed with the board pursuant to 199 IAC 39.5(5),~~ revenue recovery amounts filed with the board pursuant to 199—subrule 39.7(2), financial reports filed with the board pursuant to 199—paragraph 39.7(3)“a,” or the financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service shall be deemed granted pursuant to Iowa Code section 22.7(3), as a trade secret, or pursuant to Iowa Code section 22.7(6), as a report to a government agency which, if released, would benefit competitors and would serve no public purpose, or pursuant to both sections, provided that the confidential portions of the filings are identified and segregated and an attorney for the company or a corporate officer avers that those portions satisfy Iowa Code section 22.7(3) or 22.7(6), or both, as interpreted by the Iowa Supreme Court. The information shall be held confidential by the board upon filing and will be subject to the provisions of ~~199 IAC~~ subparagraph 1.9(8)“b”(3).

ITEM 2. Rescind 199—Chapter 39 and adopt the following **new** chapter in lieu thereof:

CHAPTER 39  
UNIVERSAL SERVICE

**199—39.1(476) Authority and purpose.** These rules relate to the board’s designation of telecommunications carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15 and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board’s authority to designate eligible telecommunications carriers (ETCs). These rules establish procedures for applying for designation as an eligible telecommunications carrier and for relinquishing such designation; adopt service requirements for eligible telecommunications carriers; and establish state certification and reporting requirements consistent with federal requirements.

**199—39.2(476) Definition of terms.** For the purposes of the board’s implementation of federal universal service fund requirements, the following definitions apply:

“*Competitive eligible telecommunications carrier*” means a carrier that meets the definition of an “eligible telecommunications carrier” below and does not meet the definition of an “incumbent local exchange carrier” in 47 CFR 51.5 as amended to March 11, 2005.

“*Connect America fund*” or “*CAF*” means the federal universal service fund, as reformed by the Federal Communications Commission, to phase down and replace support previously provided through high-cost mechanisms. The CAF is intended to make broadband available to homes, businesses, and community anchor institutions in areas that do not or otherwise would not have broadband, including services provided through mobile voice and broadband networks. The CAF also facilitates intercarrier compensation reforms intended to curb arbitrage practices and to ultimately impose a uniform national bill-and-keep framework.

“*Eligible telecommunications carrier*” or “*eligible carrier*” means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

“*Facilities*” means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support.

“*Federal poverty guidelines*” means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

“*High-cost program*” means the component of the federal universal service fund that includes the following support mechanisms: high-cost loop support, safety net support, safety valve support, local switching support, interstate common line support, high-cost model support, interstate access support, and the connect America fund, which includes funding to support and advance networks that provide voice and broadband services, both fixed and mobile.

“*High-cost support*” means those support mechanisms in existence as of October 1, 2011, specifically, high-cost loop support, safety net additive support and safety valve support provided pursuant to 47 CFR Part 36, Subpart F; local switching support pursuant to 47 CFR § 54.301 as amended to April 9, 2012; forward-looking support pursuant to 47 CFR § 54.309 as amended to March 31, 2014; interstate access support pursuant to 47 CFR §§ 54.800 through 54.809 as amended to May 15, 2014; interstate common line support pursuant to 47 CFR §§ 54.901 through 54.904 as amended to June 5, 2013; support provided pursuant to 47 CFR §§ 51.915, 51.917, and 54.304 as amended to June 5, 2013; support provided to competitive eligible telecommunications carriers as set forth in 47 CFR § 54.307(e) as amended to October 1, 2012; connect America fund support provided pursuant to 47 CFR § 54.312 as amended to August 9, 2013; and mobility fund support provided pursuant to 47 CFR Part 54, Subpart L.

“*Lifeline-only ETC*” means a telecommunications carrier that seeks limited designation as an ETC only to participate in the Lifeline program.

“*Lifeline program*” means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401 as amended to May 1, 2012, to mean a nontransferable retail service offering (1) for which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in 47 CFR § 54.403 as amended to May 1, 2012, and (2) which provides qualifying low-income consumers with voice telephony service as defined in 47 CFR § 54.101(a) as amended to April 2, 2012.

“*Mobility fund*” means the wireless component of the connect America fund which provides support for the extension of mobile broadband networks in otherwise unserved areas.

“*National Lifeline accountability database*” means the electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Federal Communications Commission and as defined in 47 CFR § 54.400 as amended to April 2, 2012.

“*Qualifying low-income consumer*” means a consumer who meets the qualifications for Lifeline as specified in 47 CFR § 54.409 as amended to June 28, 2012.

“*Tribal Link Up*” means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on tribal lands, that provides a reduction of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber’s principal place of residence and a deferred schedule of payments of the customary charge for commencing telecommunications service as defined in 47 CFR § 54.413(a) as amended to April 1, 2012.

“*Voice telephony service*” means the service designated by the Federal Communications Commission at 47 CFR § 54.101 as amended to April 2, 2012, as eligible for support by the federal universal service support mechanisms. “Voice telephony service” is service which provides:

1. Voice grade access to the public switched network or its functional equivalent;
2. Minutes of use for local service at no additional charge to end users; and
3. Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems.

**199—39.3(476) Applying for designation as an eligible telecommunications carrier.**

**39.3(1)** A telecommunications carrier must be designated as an ETC to qualify for support from the federal universal service fund. The Iowa utilities board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. An ETC designation is not transferable. Where a telecommunications carrier acquires another carrier with an ETC designation, through a sale or transfer, the acquiring company must apply for an ETC designation.

**39.3(2)** An application for an ETC designation must contain the following:

*a.* Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.

*b.* A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the Federal Communications Commission (FCC).

*c.* A certification that the applicant offers or intends to offer all services designated for support throughout the applicant's approved service area. The services designated for support are identified in 47 CFR § 54.101 as amended to April 2, 2012.

*d.* An explanation of how the carrier will provide voice telephony service as defined in 199—39.2(476) and 47 CFR § 54.101 as amended to April 2, 2012.

*e.* A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. Except for wireless resellers seeking ETC designation for Lifeline purposes only that have obtained FCC approval of a compliance plan and committed to certain 911 conditions, the board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

*f.* A description of how the applicant advertises the availability of supported services and the charges therefore using media of general distribution.

*g.* A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—paragraph 1.9(5) "c."

*h.* Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR 51.5 as amended to March 11, 2005, a demonstration that the requested designation is in the public interest.

*i.* A five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Applicants seeking designation only for purposes of receiving support from the Lifeline program are not required to submit a network improvement plan.

*j.* A demonstration of how the applicant will remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

*k.* A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.

l. A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Disclose rates and terms of service to consumers. For each service plan offered to new consumers, wireless carriers will disclose to consumers at point of sale and on their Web sites at least the following information, as applicable: (a) the coverage area for the service; (b) any activation or initiation fee; (c) the monthly access fee or base charge; (d) the amount and nature of any voice, messaging, or data allowances included in the plan (such as night and weekend minutes); (e) the charges for domestic usage in excess of any included allowances or outside of the coverage area; (f) for prepaid service plans, the period of time during which any balance is available for use; (g) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer's wireless data experience; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) the amount or nature of any late payment fee; (k) whether a fixed-term contract is required and its duration; (l) the amount and nature of any early termination fee that may apply; and (m) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable return policy.

(2) Make available maps showing where service is generally available. Wireless carriers will make available at point of sale and on their Web sites maps depicting approximate domestic coverage applicable to each of their service plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain or link to an appropriate legend concerning limitations or variations, or both, in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request from roaming partners and incorporate coverage maps that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates new service or a change in existing service, the carrier will provide or confirm any new material terms and conditions of the ongoing service with the customer.

(4) Allow a trial period for new service. When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return policies and exchange policies. Other charges, including usage charges, may still apply.

(5) Provide specific disclosures in advertising. In advertising of prices for wireless service plans or devices, wireless carriers will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (a) whether activation or initiation fees apply; (b) monthly access fees or base charges; (c) the amount and nature of any voice, messaging, or data service allowances included in the plan; (d) the charges for any domestic usage in excess of any included allowances or outside of the coverage area; (e) for prepaid service plans, the period of time during which any balance is available for use; (f) whether there are network management practices that will have a material impact on the customer's wireless data experience; (g) whether any additional taxes, fees or surcharges apply; (h) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (i) whether a fixed-term contract is required and its duration; (j) early termination fees; (k) the terms and conditions related to receiving a product or service for "free"; (l) for any service plan advertised as "nationwide" (or using similar terms), the carrier will have available substantiation for this claim; and (m) whether prices or benefits apply only for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

(6) Separately identify carrier charges from taxes on billing statements. On customers' bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal, state or local governments. Carriers will not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers will not modify the material terms of their postpaid customers' contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

(8) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier's customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' Web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in 199—Chapter 6, "Complaint Procedures," shall be followed to enforce the minimum consumer protection standards in paragraph 39.3(2) "l." When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy concerning information collected online. Each wireless carrier will abide by the Cellular Telecommunications and Internet Association's Best Practices and Guidelines for Location-Based Services.

(11) Provide consumers with free notifications for voice, data and messaging usage, and international roaming. Each wireless provider will provide, at no charge: (a) a notification to consumers of currently offered and future domestic wireless plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; (b) a notification to consumers of currently offered and future domestic voice and messaging plans that include limited voice and messaging allowances when consumers approach and exceed their allowance for those services and will incur overage charges; and (c) a notification to consumers without an international roaming plan/package whose devices have registered abroad and who may incur charges for international usage. Wireless providers will generate the notifications described above to postpaid consumers based on information available at the time the notification is sent. Wireless consumers will not have to affirmatively sign up in order for these notifications to be sent. Wireless providers will clearly and conspicuously disclose tools or services that enable consumers to track, monitor or set limits on voice, messaging and data usage.

(12) Abide by the mobile wireless device unlocking standards established in the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

*m.* For applications from wireless carriers seeking designation as an ETC, a certification that the wireless carrier will contribute to the dual party relay service, as provided in Iowa Code section 477C.7(2)“a.”

*n.* For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

**199—39.4(476) Lifeline-only applicants.** Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

**39.4(1) *Approved compliance plan required.*** The applicant shall submit a copy of a compliance plan submitted to the Federal Communications Commission and a copy of the Commission’s notice of approval.

**39.4(2) *Terms and conditions of voice telephony service offered to Lifeline subscribers.*** The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers plans to Lifeline subscribers that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

**39.4(3) *Demonstration of financial and technical capability to provide supported services.*** The applicant shall demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h) as amended to April 2, 2012. Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state.

**199—39.5(476) Service area.**

**39.5(1)** Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

**39.5(2)** In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under Section 410(c) of the Telecommunications Act of 1996, establish a different definition of service area for such company.

**39.5(3)** In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

**199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).**

**39.6(1) *Carrier obligation to offer Lifeline.*** Pursuant to 47 CFR § 54.405 as amended to May 1, 2012, which specifies the Lifeline obligations of eligible telecommunications carriers, all eligible telecommunications carriers must make available Lifeline service, as defined in 47 CFR § 54.401 as amended to May 1, 2012, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409 as amended to June 28, 2012.

**39.6(2) *Inclusion of Lifeline offering in contracts.*** Eligible telecommunications carriers shall include a description of their Lifeline offerings in their agreements to provide service to customers. Eligible telecommunications carriers shall file with the board copies of their current customer service agreements.

**39.6(3) Consumer qualification for Lifeline.** To constitute a qualifying low-income consumer, a consumer's household income as defined in 47 CFR § 54.400(f) and (h) as amended to April 2, 2012, must be at or below 135 percent of the federal poverty guidelines for a household of that size or such percentage as may be determined by the FCC or the consumer, one or more of the consumer's dependents, or the consumer's household must participate in one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families. A consumer who lives on tribal lands is eligible for Lifeline service as a qualifying low-income consumer if the consumer meets the qualifications for Lifeline specified in 47 CFR § 54.409(a) as amended to June 28, 2012, or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following tribal-specific federal assistance programs specified in 47 CFR § 54.409(b) as amended to June 28, 2012: Bureau of Indian Affairs general assistance; tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations. A consumer may only receive Lifeline service from one telephone provider per household.

**39.6(4) Determination of subscriber eligibility.** Iowa eligible telecommunications carriers are responsible for establishing consumer eligibility for Lifeline assistance. Iowa eligible telecommunications carriers shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410 as amended to August 8, 2013. Eligible telecommunications carriers shall:

- a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;
- b. Confirm a subscriber's income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);
- c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and
- d. Recertify all subscribers' Lifeline eligibility annually and at 90-day intervals (where subscribers have provided a temporary address) in accordance with 47 CFR § 54.410(f) and (g) as amended to August 8, 2013.

**39.6(5) Annual certifications by eligible telecommunications carriers.** Eligible telecommunications carriers shall make and submit to the Universal Service Administrative Company (USAC) annual certifications relating to the Lifeline program as required by 47 CFR § 54.416 as amended to June 28, 2012. Eligible telecommunications carriers shall file their annual Lifeline certifications with the board as provided in 39.7(1)"a" and, if applicable, with the relevant tribal governments.

**39.6(6) Tribal Link Up.** A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program, as defined in 199—39.2(476), to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e) as amended to April 2, 2012, must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber's residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413 as amended to April 1, 2012. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410 as amended to August 8, 2013.

**39.6(7) Audits.** Eligible telecommunications carriers shall file with the board finalized reports of audits conducted pursuant to 47 CFR § 54.420 as amended to June 28, 2012, requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

#### **199—39.7(476) Schedule of filings.**

**39.7(1) Annual Lifeline compliance certifications.**

- a. *Federal Form 555.* On or before January 31 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible

telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's certification of compliance with federal Lifeline rules filed with the Federal Communications Commission and the Universal Service Administrative Company pursuant to 47 CFR § 54.416 as amended to June 28, 2012, using Federal Form 555.

*b. Filing instructions.* FCC Form 555 shall be filed using the board's electronic filing system in accordance with 199—14.9(17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Lifeline Eligible Telecommunications Carrier Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "FCC Form 555 Filing." The board's records and information center will assign each filing an FLR docket number, signifying "Federal Lifeline Report." The annual Lifeline compliance certifications are not subject to protection from public disclosure.

**39.7(2) Annual eligible recovery certifications.** On or before the date on which carriers file their access tariffs with the FCC, each price cap and rate-of-return carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board certifications of eligible recovery amounts as follows, as required by 47 CFR § 54.304(c) and (d) as amended to June 5, 2013.

*a. Price cap carriers.* Each price cap carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.915 as amended to June 5, 2013, and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

*b. Rate-of-return carriers.* Each rate-of-return carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.917 as amended to June 5, 2013, and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

*c. Filing instructions.* The annual eligible recovery certifications shall be filed using the board's electronic filing system in accordance with 199—14.9(17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Connect America Fund – Intercarrier Compensation Recovery and Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "Annual Reporting Requirements for Section 54.304." The board's records and information center will assign each filing an "ETR" docket number, signifying "Eligible Telecommunications Carrier Report."

*d. Confidential information.* Requests to withhold from public inspection revenue recovery amounts will be deemed granted as provided in 199—paragraph 1.9(5) "c."

**39.7(3) Annual reporting requirements.**

*a. Federal Form 481.* On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.313 as amended to March 31, 2014 (for ETCs receiving high-cost support), or 47 CFR § 54.422(a) as amended to June 28, 2012 (for ETCs receiving Lifeline support only), using Federal Form 481 or such other form designated by the FCC as the form for the annual report for ETCs.

*b. Federal Form 690.* On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) and that receives mobility fund support shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.1009 as amended to July 26, 2013.

*c. Annual certifications from carriers seeking to continue to receive high-cost support.* Any carrier seeking to continue to receive federal high-cost universal service support shall file with the board no later than July 1 of each year an affidavit titled "Certification of [Company Name]." The company name shall be the name used on the carrier's initial application for ETC designation and its current name, if its name has changed.

(1) Contents of affidavit. The affidavit shall include the study area code (SAC) number associated with the company. The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer. The affidavit shall certify that the carrier has used and will use the high-cost support the carrier receives pursuant to 47 CFR Subchapter B, Part 54, Subparts D and L, and as defined in 47 CFR § 54.5 as amended to April 1, 2013, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, the affidavit shall certify that the carrier has complied with and will continue to comply with applicable service quality standards and consumer protection rules, certify that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, certify that the carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas, and certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within the ETC's designated service area. The affidavit shall also certify to the following: as an eligible telecommunications carrier, the carrier agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

(2) Certifications subject to complaint or investigation. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

(3) State certification of eligibility. An ETC's certification shall be the basis of the board's certification to the FCC and USAC pursuant to 47 CFR § 54.314 as amended to May 8, 2012, that the ETC has used and will use the support for the purposes intended.

*d. Progress reports and extensions on previously filed two-year network improvement and maintenance plans.* In addition to any network improvement plans and associated progress reports required by 47 CFR § 54.313 as amended to March 31, 2014, competitive ETCs whose universal service support is being phased down must file with the board progress reports and extensions on previously filed two-year network improvement and maintenance plans during the phase-down period. Each competitive ETC subject to this requirement shall file a rolling one-year extension and a progress report on its network improvement and maintenance plan detailing the prior calendar year's activities. The progress report shall include coverage area maps detailing progress toward plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity. If support was used for something other than improving signal quality, coverage, or capacity, the report shall include an explanation of how the support was used. The report shall identify any network improvement targets that have not been met and shall include an explanation of why targets were not met. The report shall indicate if there have not been any changes to the ETC's coverage area and shall include an explanation of why no changes were made. Any reporting of expense and investment information shall include an explanation of how the expenses and investments benefited specific wire centers in the ETC's designated service area. For purposes of this paragraph, "wire center" shall be defined as determined by the North American numbering plan administrator.

*e. Filing instructions for annual report filings.* FCC Form 481 (including rate floor data filed pursuant to 47 CFR § 54.313(h)), the affidavit certifying compliance, any required network improvement plan progress report and extension, and FCC Form 690 shall be filed using the board's electronic filing system in accordance with 199—14.9(17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Eligible Telecommunications Carrier Reporting Requirements," with a reference to the year for which the report is filed. The document title for the FCC form shall be "FCC Form 481 Filing" or "FCC Form 690 Filing," as appropriate. The document title for the affidavit certifying compliance shall be "Carrier Certification." The document title for any required network improvement plan progress report shall be "Network Improvement Plan Progress Report." The board's records and information center will assign each filing an FER docket number, signifying "Federal ETC Report," and indicating the year of filing and the carrier's company number.

*f. Confidential information.*

(1) Requests to withhold from public inspection network improvement and maintenance plan extensions and progress reports and financial reports included in the annual report filings will be deemed granted as provided in 199—paragraph 1.9(5) “c.”

(2) If a carrier considers other information filed on or with FCC Form 481 to be confidential, the carrier shall file both a public version and a confidential version of the material according to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with FCC Form 481 is based on a protective order issued by the FCC, the carrier’s request for confidential treatment shall include a reference to the relevant protective order.

**199—39.8(476) Relinquishment of ETC designation.**

**39.8(1)** The board may permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give 90 days’ advance notice to the board of such relinquishment.

**39.8(2)** Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the board shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The board shall establish a time, not to exceed one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).